

PREVAILING WAGE COMMISSION MEETING
November 28, 2012
MINUTES

PRESENT: COMMISSIONER KARLA DAVIS
BRENT HALL
BOB OGLESBY
WAYBURN CRABTREE
R.T. SUMMERS

Recorded by Christina J. Tugman

Please note this transcript is not a word-for-word account. Some general discussion and comments have been omitted for the sake of brevity.

I. Call to Order and Roll Call

Christina J. Tugman called the meeting to order at 10:00 a.m. with the Commission members stating their names for the record.

II. Conflict of Interest

Commissioner Davis asked the Commission members if they had any new changes within the Conflict of Interest Statements. No Commission member had anything to declare.

III. Old Business

Review and approve the minutes from the November 15, 2012, Prevailing Wage Commission meeting.

Commissioner Davis asked for a motion to approve the minutes from the November 15, 2012, Prevailing Wage Commission meeting.

Brent Hall motioned. Wayburn seconded.

All approved. Motion passed.

IV. New Business

Review and approve final Highway & Bridge Prevailing Wage rates for 2013.

Commissioner Davis stated that Mr. Dattilo has made the requested changes and will now be reviewed by the commission.

Michael Dattilo reiterated the motion made by commission member R.T. Summers. Summers motion was to remove information pertaining to the wrong data being entered into the database under Highway & Bridge because it should have been placed under Building. The information referred to was under the Classification 11 (Ironworkers Reinforcing) at a hospital and also under tunnel cleaning, Classification 19 (Sweeping Machine (Vacuum) Operator). Boarder Rebar was entered as Classification 13 (Mechanical (Class I) Heavy Duty) and was entered for Washington County, Region 11. Border Rebar was removed from Classification 11 (Ironworkers Reinforcing) on Highway & Bridge and was entered into Classification 13 (Iron Worker: Structural, Reinforcing, Ornamental) on Building. Information entered under Highway & Bridge, Classification 20 [Truck Driver (2 axles)] was removed and entered under Classification 19 [Sweeping Machine (Vacuum) Operator]. Information entered under Highway & Bridge Classification 14 [Mechanic (Class II) Light Duty] was moved to Classification 13 Mechanic (Class I) Heavy Duty. This is pertaining to the Johnson City Hospital.

R.T. Summers made a motion to approve the Highway & Bridge Prevailing Wage rates for 2013.

Wayburn Crabtree seconded the motion.

All approved. Motion passed.

Review and approve final Building Prevailing Wage rates for 2013-2014.

Commissioner Davis had the commission look at the spreadsheet provided by Michael Dattilo of the breakdown of each region and their perspective rates so that the commission could obtain a better understand of how the rates came to fruition. Footnotes were added as to see the perspective rate changes. Commissioner Davis also pointed out that in some regions there was little to no response to the survey therefore based upon the calculations that the prevailing wage rate would be decreased by 6% from the current rate. Looking at Region 1, Classification 1 (Boilermaker), the 2012 rate was \$21.72 and the 2013-2014 rate would be \$20.42. Looking at the circumstance when the survey rate comes in as zero because there were no responses, then the new Prevailing Wage rate ends up being less, then the current prevailing wage rate based upon the calculations and that pertains to note 7.

R.T. Summers stated that in the past that when there are no responses that the commission has increased the rate by state average, rather than decrease the rate.

Commissioner Davis stated that she wanted to show the commission that when the commission follows the guidelines set forth by the commission that sometimes the outcome is not what was predicted.

Brent Hall stated that the commission has the ability to adjust the rates no more than 6%.

Bob Olgesby asked Commissioner Davis about the guidelines set forth and why the guidelines would allow for such change. Commissioner Davis responded that the guidelines were preexisting.

Stephanie Mitchell, Legal Counsel read:

Rule 0800-3-2-.08 Prevailing Wage Survey (7) In any classification of a craft of workers listed on the prevailing wage survey form where four (4) or fewer separate survey responses are received, these responses may be excluded from establishing the rates. Where data is excluded, the Commission may continue the rate in existence at the time of the survey or adjust it pursuant to T.C.A. § 12-4-405(4).

The commission can make the determination to continue with the increase or change.

R.T. Summers stated that in the past the commission has taken the four major metropolitan areas Shelby County, Hamilton County, Knox County, and Davidson County and used their data to increase the rural areas regional average because those areas really have no participation in the survey. As to the other seven regions the commission has prepared a blended rate. This was achieved in an effort to collect better data.

R.T. Summers made a motion that where there are zero responses that the commission goes up or down by the regional average within the commission's right of 6% authority.

Wayburn Crabtree seconded.

Brent Hall stated that there was an article published in the Tennessean telling of contractors that were ordered to pay back wages to Nissan project workers. Workers were misclassified as plumbers rather than pipefitters. Sheet metal and ironworkers were also misclassified as laborers on this project. This was in Region 6 and looking at region 6, T.W. Frierson, turned in Classification 20 (Sheet Metal Worker), Form 163 had 2,319 hours at \$14.12, Form 300 had 3,910 at \$15.44, Form 161, 604 hours at \$17.00, Form 162 1,970 hours at \$17.35, Form 126 236 hours at \$19.08, and Form 125 had 9 hours \$21.00. When you look at Form 163 and Form 300 you can see that 6,300 hours, looking at the current rate for a laborer in Region 6 it being Labor A @ 13.01 and Laborer B @\$12.06 it seems to be in line with what they are paying. If these jobs were at the Nissan plant then they should be discarded. Secondly if this data is pulled out it will significantly change the outcome of the data.

Commissioner Davis stated that the issue is whether the commission wants to address that concern based upon if we can, according to the statute and secondly given the time that the rates must be calculated according to deadline that the rates must be set.

Stephanie Mitchell stated that yes the commission can discuss and decided on what the appropriate outcome should be because it affects the outcome of the final rates.

Brent Hall asked how much time it would take to pull out this data and readjust the rates.

Michael Dattilo stated it could be done but not here and now at this very moment we, labor standards would need to go back to the program to pull out the data, manually.

Bob Olgesby asked if the commission could go ahead and approve the change based on the staff's confirmation of the adjustment.

Brent Hall again stated could the commission go forward with approving the rates with the stipulation that the data be verified.

There was discussion of whether the data should be moved all together or should it be placed within the correct category under the correct rate.

If the workers were in fact misclassified and in turn paid back wages then the data would need to be removed from the survey.

Brent Hall made a motion that the Labor Standards staff validate with T.W. Frierson that the data submitted is indeed correct then it will remain in the calculations of the survey rates.

R. T. Summers seconded.

All approved. Motion passed.

Commissioner Davis addressed a question to R.T. Summers as to the rural and urban average, were all the urban areas combined and does it create an average such as the rural areas? R.T. Summers stated no, the urban areas stood on their own and the rural areas were combined less the four major counties as stated prior.

Commissioner Davis asked the commission if they wanted to entertain using the rural average or stay with the original motion made by R.T. Summers.

There was some discussion on whether to use the rural average in calculation of the prevailing wage rates.

The commission discussed where there were 4 or less responses the prevailing wage rate would only go up by the regional average.

There was further discussion on *Note 7 of the 2013-2014 Building Prevailing Wage Rates.

R.T. Summers withdrew his last motion. Wayburn Crabtree withdrew his second to that motion.

R.T. Summers made a motion to use *Notes 1-7 with the regional average and add *Note 8, stating “If no responses submitted to Commission (0)/ New Prevailing Wage Rate remains the same as Current Rate.

Bob Olgesby seconded.

All approved. Motion passed.

Commissioner Davis stated that the necessary changes will be made by December 1, 2012. And the commission will be notified accordingly.

Discuss the Revision of existing TDOL Prevailing Wage Certified Payroll Form (Remove full Social Security Number – Last 4 Digits of SSN).

Michael Dattilo brought to the commission the PW Certified Payroll form and stated that the full social is included on the form. He stated that putting the full social on the form was met with resistance by employers and proposed that we only include the last four digits of the social on the form.

Commissioner Davis asked for a motion to approve placing only the last four digits of the social security on the TDOL Prevailing Wage Certified Payroll form.

Bob Olgesby motioned. Wayburn Crabtree seconded.

All approved. Motion passed.

V. Adjourn

Commissioner Davis adjourned the Prevailing Commission meeting for November 28, 2012.